

### **13-1-1. Legislative findings and declarations.**

The Legislature finds that many businesses and occupations in the state have a pronounced physical and economic impact on the health, safety, and welfare of the citizens of the state. The Legislature further finds that while the overall impact is generally beneficial to the public, the potential for harm and injury frequently warrants intervention by state government.

The Legislature declares that it is appropriate and necessary for state government to protect its citizens from harmful and injurious acts by persons offering or providing essential or necessary goods and services to the general public. The Legislature further declares that business regulation should not be unfairly discriminatory. However, the general public interest shall be recognized and regarded as the primary purpose of all regulation by state government.

Amended by Chapter 378, 2010 General Session

### **13-1-2. Creation and functions of department -- Divisions created -- Fees -- Commerce Service Account.**

- (1) (a) There is created the Department of Commerce.
- (b) The department shall execute and administer state laws regulating business activities and occupations affecting the public interest.
- (2) Within the department the following divisions are created:
  - (a) the Division of Occupational and Professional Licensing;
  - (b) the Division of Real Estate;
  - (c) the Division of Securities;
  - (d) the Division of Public Utilities;
  - (e) the Division of Consumer Protection; and
  - (f) the Division of Corporations and Commercial Code.
- (3) (a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department by following the procedures and requirements of Section 63J-1-504.
- (b) The department shall submit each fee established in this manner to the Legislature for its approval as part of the department's annual appropriations request.
- (c) (i) There is created a restricted account within the General Fund known as the "Commerce Service Account."
  - (ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by each division and by the department.
  - (iii) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any fee collections that are greater than the legislative appropriations from the Commerce Service Account for that year.
  - (d) The department may not charge or collect a fee or expend money from the restricted account without approval by the Legislature.

Amended by Chapter 278, 2010 General Session

### **13-1-3. Executive director.**

- (1) The department shall be under the supervision, direction, and control of the

executive director of commerce. The executive director shall be appointed by the governor with the consent of the Senate. The executive director shall hold office at the pleasure of the governor. The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall employ personnel necessary to carry out the duties and responsibilities of the department.

Amended by Chapter 176, 2002 General Session

**13-1-4. Centralization of duties.**

The department shall centralize the duties and responsibilities of its divisions and agencies in order to:

- (1) reduce and avoid duplication;
- (2) provide efficient planning and management services; and
- (3) maximize utilization of resources.

Enacted by Chapter 322, 1983 General Session

**13-1-5. Executive director's authority over division directors.**

The executive director has policymaking and management jurisdiction over directors of the divisions and agencies within the department. He shall appoint the division directors, subject to approval by the governor, unless otherwise provided by law and shall determine their compensation.

Enacted by Chapter 322, 1983 General Session

**13-1-6. Rules and regulations.**

(1) The executive director shall prescribe rules and procedures for the management and operation of the department, the conduct of its employees, and the custody, use, and preservation of its records, papers, books, documents, and property.

(2) The department and its divisions, in contemplation, formulation, and passage of rules pursuant to Subsection (1), shall acknowledge and consider the facilitation of commerce in all its forms, including reliable electronic commerce, for the benefit of both consumers and businesses.

Amended by Chapter 86, 2000 General Session

**13-1-7. Budgets.**

The department shall prepare and submit to the governor a proposed budget for each division or agency within the department to be included in the budget submitted by the governor to the Legislature for the fiscal year following the convening of the Legislature in an annual general session.

Amended by Chapter 21, 1985 General Session

**13-1-8. Annual report.**

The department shall prepare and submit to the governor and the Legislature by October 1 of each year an annual report of the operation, activities and goals of the department, its divisions, and agencies for the preceding fiscal year.

Enacted by Chapter 322, 1983 General Session

**13-1-8.5. Procedures -- Adjudicative proceedings.**

(1) The Department of Commerce and its divisions shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.

(2) The department may contract with other state agencies or departments to conduct hearings in its name or in the name of its divisions or agencies.

Amended by Chapter 382, 2008 General Session

**13-1-11. Employment of administrative law judges.**

The department may employ administrative law judges to conduct hearings for the department, its divisions, and agencies, and to advise the executive director, division directors, and agency boards on hearing and rulemaking procedures.

Enacted by Chapter 322, 1983 General Session